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original action. But the Joint Debtor Act creates an anomaly in the law. And for the purpose of giving effect to the statute, and at the same time preserving the rights of all parties, the plaintiff must be allowed to sue on the original demand. There is no difficulty in pursuing such a course: it can work no injury to any one, and it will avoid the absurdity of allowing a party to sue on a pretended cause of action, which is, in truth, no cause of action at all, and then to recover on proof of a different demand."

Following these authorities, and giving the judgment recovered in Michigan the same effect and operation that it would have in that state, we answer the question presented in the certificate, that the exemplification of the record of the judgment recovered against the defendant, Elisha Eldred, offered by the defendant, Anson Eldred, is not admissible in evidence in bar of, and to defeat, a remedy against him.

Supreme Court of the United States.

THE GALENA, &C., PACKET COMPANY v. SO MUCH OF THE ROCK ISLAND RAILROAD BRIDGE AS LIES WITHIN THE NORTHERN DISTRICT OF ILLINOIS, THE ROCK ISLAND RAILROAD COMPANY, THE MISSISSIPPI AND MISSOURI RAILROAD COMPANY, CLAIMANTS.

A maritime lien does not exist upon a stationary structure like a bridge, and therefore a Court of Admiralty has no jurisdiction of a proceeding *in rem* against a bridge to recover damages caused by the structure to vessels navigating a public stream.

Nature and extent of the admiralty jurisdiction *in rem* discussed by FIELD, J.

APPEAL from the Circuit Court of the United States for the Northern District of Illinois.

Robert Rae and *A. W. Arrington*, for libellants.

C. Beckwith and *B. C. Cook*, for claimants.

The opinion of the court was delivered by

FIELD, J.—The libel in this case is filed against that part of the Rock Island Railroad Bridge, which is situated in the Northern District of Illinois, for alleged damages done by that

part of the bridge to two steamboats, the property of the libellant, employed in the navigation of the Mississippi river. It alleges that, by law and the public treaties of the United States, the Mississippi river is, for the distance of 2000 miles, a public navigable stream and common highway, free and open to all the citizens of the United States, who are entitled to navigate the same by sailing and steam vessels, and otherwise, without impediment or obstruction; that the Rock Island bridge obstructs the free navigation of the stream; and that by collision with this obstruction the steam-vessels of the libellant have been injured, and he has in consequence been damaged to an extent exceeding \$70,000.

In accordance with the prayer of the libel, process was issued and the property attached. The Mississippi and Missouri Railroad Company and others then intervened as claimants, and filed an exception to the jurisdiction of the court to proceed against the property in question in the manner "in which the same is sought to be proceeded against by the libel"—in other words, they objected to the jurisdiction of the court to take a proceeding *in rem* against the property. The exception was sustained by the District and Circuit Courts, and the libel dismissed. The correctness of this ruling is the sole question presented for our determination.

There is no doubt, as stated by the counsel for the appellant, that the jurisdiction of the Admiralty extends to all cases of tort committed on the high seas, and in this country on navigable waters. For the redress of these torts, the Courts of Admiralty may proceed in *personam*, and when the cause of the injury is the subject of a maritime lien, may also proceed *in rem*. The latter proceeding is the remedy afforded for the enforcement of liens of that character.

A maritime lien, unlike a lien at common law, may, in many cases, exist without possession of the thing, upon which it is asserted, either actual or constructive. It confers, however, upon its holder such a right in the thing that he may subject it to condemnation and sale to satisfy his claim or damages: and when the lien arises from torts committed at sea, it travels with the thing, wherever that goes, and into whosoever hands it may pass. The only object of the proceeding *in rem* is to make this right, where

it exists, available—to carry it into effect. It subserves no other purpose.

The lien and the proceeding *in rem* are therefore correlative—where one exists the other can be taken, and not otherwise. Such is the language of the Privy Council in the decision of the case of *The Bold Buccleugh*, 7 Moore 284. “A maritime lien,” says that court, “is the foundation of the proceeding *in rem*, a process to make perfect a right inchoate from the moment the lien attaches; and whilst it must be admitted that where such lien exists a proceeding *in rem* may be had, it will be found to be equally true, that in all cases where a proceeding *in rem* is the proper course, there a maritime lien exists, which gives a privilege or claim upon the thing to be carried into effect by legal process.”

There is an expression in the case of *The Volant*, 1 W. Rob. 38, attributed to Dr. LUSHINGTON, which militates against this view. He is reported to have said, that the damage committed on the high seas confers no lien upon the ship, and this is cited by the counsel of the appellant to show that a maritime lien is not the foundation of a proceeding *in rem*. But the expression is a mere dictum, and the Privy Council in the case cited allude to it, and observe that it is doubtful, from a contemporaneous report of the same case (1 Notes of Cases 508), whether the learned judge made use of it, and add, that if he did, the expression is certainly inaccurate, and not being necessary for the decision of the case, cannot be taken as authority.

A maritime lien can only exist upon movable things engaged in navigation, or upon things which are the subjects of commerce on the high seas or navigable waters. It may arise with reference to vessels, steamers, and rafts, and upon goods and merchandise carried by them. But it cannot arise upon anything which is fixed and immovable, like a wharf, a bridge, or real estate of any kind. Though bridges and wharves may aid commerce by facilitating intercourse on land, or the discharge of cargoes, they are not in any sense the subjects of maritime lien.

Decree affirmed.